

Message Text

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C O N F I D E N T I A L SECTION 1 OF 4 GENEVA 1774

DEPT PLEASE POUCH TO ALL US EMBASSIES, USUN, USEC

1. SUMMARY: DISCUSSION DURING THE FIRST WEEK OF EVENSEN'S (NORWEGIAN VICE CHAIRMAN LOS CONFERENCE) INTERSESSIONAL MEETING FOCUSED UPON KEY TREATY ARTICLES DEALING WITH THE SYSTEM OF SEABED MINING. OTHER AGENDA ISSUES TO BE REAISED IN THE SECOND WEEK INCLUDE FINANCING OF THE ENTERPRISE, RESOURCE POLICY (ART. 9) DISPUTES SETTLEMENT FOR COMMITTEE I AND THE METHODS FOR VIEW OF AN INTERIM REGIME. MOST LDCS CONTINUED TO SUPPORT WIDE DISCRETIONARY POWERS FOR THE SEABED AUTHORITY. HOWEVER, DISCUSSIONS HAVE BEEN MODERATE IN TONE, WITH A MINIMUM OF IDEOLOGICAL DEBATE. IMPORTANT ELEMENT IN DISCUSSIONS HAS BEEN ACKNOWLEDGMENT BY MOST LDCS WHO SPOKE OF NEED FOR ROLE BY STATES AND PRIVATE ENTITIES IN MINING SEABEDS IF SEABEDS ARE TO BE EXPLOITED AND THE ENTERPRISE IS TO GET INTO BUSINESS. WHILE FOCUS HAS BEEN ON POSSIBLE COMPROMISE TREATY AND ANNEX TEXTS PREPARED BY EVENSEN, PAPERS HAVE ALSO BEEN TABLED BY MEXICAN DELEGATE (CASTANEDE) AND A GROUP OF ANONYMOUS LDC DELEGATES. BOTH PAPERS SEEK TO STRENGTHEN THE ROLE AND POWERS OF THE SEABED AUTHORITY. THE FORMER STRESSES INTERIM REGIME (25 YEARS) ALLOWING PARALLEL EXPLOITATION

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TO BE FOLLOWED BY REVIEW CONFERENCE. IT CALLS FOR SUBSTANTIAL FRONT-END FINANCING OF ENTERPRISE BY FEES PAID BY STATE AND PRIVATE ENTITIES AS A PRECONDITION OF ACCESS TO SEABED MINERALS. THE LATTER CALLS FOR A QTE CONCEPTUALLY UNIFIED UNQT SYSTEM OF JOINT VENTURES. CONSIDERABLE PROBING OF EACH OTHER'S POSITION IS TAKING PLACE WITH TACIT ACKNOWLEDGEMENT BY ALL THAT THIS MEETING IS NOT THE PLACE

TO MAKE THE FINAL DECISION. THE MAJOR INDUSTRIALIZED COUNTRIES HAVE HELD FIRM IN THEIR SUPPORT FOR SEABED MINING ACCESS AND NEED FOR CLEAR RESTRICTION OF THE DISCRETION OF AUTHORITY TO DETERMINE ACCESS TO AREA. US DELEGATION HAS TAKEN POSITION ON NEED FOR ACCESS WHILE EMPHASIZING DESIRABILITY FOR CONSTRUCTIVE AND REALISTIC APPROACH TO SEEKING MUTUAL ACCOMMODATION OF INTERESTS. IMPORTANT QUESTION IS WHETHER MODERATION WILL PREVAIL ONCE G-77 FORMALLY ASSEMBLES BEFORE AND DURING NEW YORK CONFERENCE ITSELF. IEND SUMMARY.

3. DELEGATES FROM ABOUT 75 COUNTRIES ARE ATTENDING EVENSEN MEETING INCLUDING A GOOD NUMBER FROM ASIA AND WEO GROUP, BUT ONLY ABOUT 9 FROM AFRICA AND VERY FEW FROM ARAB COUNTRIES (EGYPT REPRESENTED AT HIGH LEVEL). MOST COUNTRIES ARE REPRESENTED BY THEIR HEAD OF DELEGATION. SIGNIFICANT TO NOTE IS INVOLVEMENT OF MAJOR CONFERENCE FIGURES (E.G., AGGULAR OF VENEZUELA, CASTANEDA OF MEXICO, MOCHTAR OF INDONESIA, NJENGA OF KENYA); NOT PREVIOUSLY INVOLVED DEEPLY IN COMMITTEE I ISSUES. IN ADDITION TO ITEMS MENTIONED IN PARA 1, CONFERENCE PRESIDENT AMERASINGHE (SIR LANKA) VISITED GENEVA AND MET WITH KEY DELEGATES TO DISCUSS DISPUTE SETTLEMENT AND OTHER ISSUES IN PRIVATE. UNDER GROUND RULES, PARTICIPANTS ARE ATTENDING AND SPEAKING IN THEIR QTE INDIVIDUAL UNQTE RATHER THAN OFFICIAL CAPACITIES.

4. GENERAL DEBATE DURING FIRST WEEK OF EVENSEN MEETING HAS ADOIDED EXTREMIST RHETORIC. GROUP OF 77 (G-77) MEMBERS, CONFIDENTIAL

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IN COMMENTING ON EVENSEN'S COMPROMISE TEXT, HAVE ARGUED FOR INCREASED DISCRETIONARY POWERS FOR THE PROPOSED INTERNATIONAL SEABED AUTHORITY (ISA), AND HAVE EMPHASIZED THE IMPORTANCE OF GETTING THE ENTERPRISE INTO BUSINESS THROUGH FINANCING AND TECHNOLOGY. THEY HAVE ACKNOWLEDGED THE NECESSITY FOR INVOLVEMENT OF STATE AND PRIVATE ENTITIES IN THE INITIAL STAGES OF ANY SYSTEM OF EXPLOITATION UNDER THE AUTHORITY. THE LATTER POINT APPEARS TO BE AN INDICATION OF GREATER AWARENESS AMONG A NUMBER OF G-77 DELEGATES THAT FOR THE ENTERPRISE TO GET INTO BUSINESS AND FOR THE AUTHORITY TO OBTAIN MEANINGFUL REVENUE, EXPLOITATION BY PRIVATE FIRMS AND STATES WILL BE NECESSARY. HOWEVER, A NUMBER OF THE G-77 MEMBERS EXPRESSED A DESIRE TO PHASE OUT SUCH ACCESS AS SOON AS POSSIBLE AND SPECIFICALLY AS SOON AS THE ENTERPRISE HAS DEVELOPED A CAPACITY TO MINE ON ITS OWN.

5. JOINT VENTURES AND SERVICE CONTRACTS WERE RAISED BY A NUMBER OF G-77 DELEGATES AS THE MEANS BY WHICH PRIVATE

OR STATE MINERS MIGHT CARRY OUT MINING OF THE DEEP SEABEDS. MANY LDCS CONTINUE TO PREFER FOR IDEOLOGICAL REASONS A QTE UNITARY SYSTEM UNQTE IN WHICH SERVICE CONTRACTS AND/OR JOINT VENTURES WOULD BE THE SLOE MEANS OF ACCESS BY STATE AND PRIVATE ENTITIES. OTHER G-77 MEMBERS APPEAR TO ACCEPT THE CONCEPT OF A QTE PARALLEL SYSTEM UNQTE OF EXPLOITATION, FOR AN INTERIM PERIOD, WITH BOTH AN INTERNATIONAL QTE ENTERPRISE UNQTE ON ONE SIDE AND STATES PARTIES AND PRIVATE FIRMS ON THE OTHER. HOWEVER, MEMBERS OF THE G-77 VIEW THE PARALLEL SYSTEM AS ONLY A TEMPORARY EXPEDIENT. THE POSSIBILITY OF A TREATY REVIEW CLAUSE OR INTERIM PERIOD FOR JOINT EXPLOITATION BY THE ENTERPRISE AND STATES PARTIES WAS REPEATEDLY REISED BY G-77 MEMBERS. THIS APPROACH

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C O N F I D E N T I A L SECTION 2 OF 4 GENEVA 1774

WAS SEEN BY SOME LDC DELEGATES AS A MEANS OF COMPROMISE BETWEEN THE DESIRE OF ACCESS BY DEVELOPED COUNTRIES AND THE VIEWS OF SOME LDCS THAT ONLY THE ENTERPRISE OF JOINT VENTURES SHOULD HAVE THE RIGHT TO MINE. UNDER SUCH A TEMPORARY REGIME SOME EXPLOITATION BY STATES WOULD TAKE PLACE FOR ABOUT 20-25 YEARS USING A PARALLEL ACCESS APPROACH. AFTER THIS PERIOD, THE PARALLEL ACCESS SYSTEM WOULD EITHER BE REPLACED BY A UNITARY SYSTEM, OR, AT A MINIMUM WOULD BE SUBJECT TO COMPREHENSIVE RE-EVALUATION BY THE AUTHORITY OR BY A PLENARY REVIEW CONFERENCE.

6. IN ADDITION TO THE EVENSEN COMPROMISE TEXT ON ARTICLES 22 AND 23, IN PARAGRAPH 8 OF ANNEX I, TWO PAPERS WERE

TABLED BY LDC DELEGATES.

A) THE FIRST IS AN INFORMAL WORKING PAPER PUT FORWARD BY CASTANEDA (MEXICO), WHICH ACCEPTS A PARALLEL SYSTEM ALONG THE LINES OF THE EVENSEN TEXT, SUBJECT TO CERTAIN CONDITIONS. IT THESE CONDITIONS ARE: (1) ADEQUATE FUNDING FOR THE ENTERPRISE TO ENABLE IT TO EXPLOIT THE SEABEDS (FUNDING WOULD COME FROM FEES, ROYALTIES AND LOANS); (2) THE INITIAL SYSTEM WILL BE PROVISIONAL AND BE REVIEWED IN A QTE REASONABLE UNQTE PERIOD; AND (3) THERE IS A CONFIDENTIAL

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QTE REASONABLE UNQTE LIMITATION ON THE POWERS AND FUNCTIONS OF THE SEABED TRIBUNAL (I.E., THE TRIBUNAL COULD NOT ANNUL RULES OF GENERAL APPLICATION ISSUED BY THE AUTHORITY BUT COULD REVIEW SPECIFIC QTE ACTS UNQTE BY THE AUTHORITY IN APPLYING THOSE RULES). SPECIFIC TREATY LANGUAGE WAS INCLUDED IN THE MEXICAN PAPER COVERING THESE POINTS REGARDING REVIEW OF THE PROVISIONAL REGIME, THE MEXICAN PAPER PROVIDES THAT THE ASSEMBLY OF THE SEABED AUTHORITY SHOULD CONVENE A REVIEW CONFERENCE OF THE SEABEDS REGIME 20 YEARS FROM THE PROVISIONAL OR DEFINITIVE ENTRY INTO FORCE OF THE CONVENTION, WHICHEVER TAKES PLACE FIRST (APPROXIMATELY ONE MINING GENERATION). ALSO, PROVISIONS IS MADE IN THE MEXICAN TEXT FOR REVIEW AND REVISION OF THE PROVISIONAL REGIME EVERY FIVE YEARS BY THE ASSEMBLY WITH A VIEW TOWARD ITS QTE IMPROVEMENT UNQTE WITHOUT AMENDMENT TO THE CONVENTION OR ITS ANNEXES.

B) THE OTHER PAPER WAS TABLED BY AN ANONYMOUS GROUP OF G-77 CONFERENCE LEADERS TO PROMOTE QTE A CONVERGENCE OF VIEWS UNQTE. IT INCLUDES THE FOLLOWING ELEMENTS:

-- A QTE CONCEPTUALLY UNIFIED SYSTEM OF EXPLOITATION UNQTE IN WHICH THE AUTHORITY WOULD HAVE CENTRAL ROLE IN ALL ACTIVITIES AS TRUSTEE FOR QTE COMMON HERITAGE UNQTE WOULD BE ESTABLISHED;

-- AUTHORITY WOULD BE OBLIGED TO ENCOURAGE SEABED MINERAL EXPLOITATION SUBJECT TO THE QTE PROTECTIVE AND COMPENSATORY UNQTE PRINCIPLES OF A QTE RESOURCE UNQTE ARTICLE ALONG THE LINES OF SOME OF THE PROVISIONS OF ARTICLE 9 OF THE RSNT;

-- THE DISCRETION OF THE AUTHORITY IN CONTROLLING ACCESS TO THE AREA FOR THE ENTERPRISE, STATES AND PRIVATE ENTITIES WOULD BE DEFINED THROUGH REFERENCE TO THE RESOURCE ARTICLE;

-- QTE ASSURED ACCESS UNQTE BY THE ENTERPRISE ALONE, OR BY THE ENTERPRISE IN ASSOCIATION WITH STATES AND PRIVATE ENTITIES WOULD BE PROVIDED ON QTE A PROFIT ORIENTED BASIS, UNQTE SUBJECT TO SELECTION PROCEDURES SET OUT IN AN ANNEX. CONFIDENTIAL

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(PAPER STATES: QTE IN PRACTICE, THE SYSTEM WOULD ASSUME A ROLE FOR STATES AND STATE-SPONSORED ENTITIES SO LONG AS THEIR TECHNOLOGICAL LEAD IS MAINTAINED, I.S., FOR THE FORESEEABLE FUTURE. UNQTE)

--A FRAMEWORK FOR QTE MUTUALLY PROFITABLE UNQTE CONTRACTUAL RELATIONSHIPS BETWEEN THE ENTERPRISE AND STATES AND THEIR ENTITIES WOULD BE PROVIDED.

--SCIOE FOR THE GRADUAL EMERGENCE OF AN ENTERPRISE THAT WOULD FUNCTION INDEPENDENTLY WOULD BE PROVIDED.

-- SUCH A SYSTEM WOULD CONTINUE UNLESS MODIFIED BY AUTHORITY'S POLICY DECISION THROUGH QTE SPECIAL PROCEDURES UNQTE OR UPON A REVIEW PROCEDURE DESIGNED TO ENHANCE PROGRESSIVELY THE ROLE OF THE ENTERPRISE BUT THE QTE PERMANENT SCOPE UNQTE FOR ASSOCIATION WITH IT BY STATES AND STATE ENTERPRISES.

-- A QTE BANKING UNQTE PROVISION MIGHT BE INCLUDED AS A COMPULSORY ELEMENT IN EARLY NEGOTIATIONS OF THE LEVEL OF PARTICIPATION BY THE AUTHORITY IN A PARTICULAR CONTRACTUAL RELATIONSHIP.

7. SOME MAJOR POINTS MADE IN THE FIRST WEEK'S DEBATE BY G-77 CONFERENCE LEADERS INCLUDE:

--AMBASSADOR PINTO (SRI LANKA) PREFERS A UNITARY SYSTEM ALTHOUGH SUCH A SYSTEM MIGHT ALSO OPERATE THROUGH STATES UNDER THE CONTROL OF A DOMINANT AUTHORITY WITH A QTE BANKING UNQTE SYSTEM; THE LONG-TERM AIM WOULD BE THAT ONLY THE ENTERPRISE WOULD MINE. HE SUPPORTED WIDE AND ACTIVE ROLE FOR THE AUTHORITY NOT GENERALLY SUBJECT TO REVIEW BY THE TRIBUNAL. ENTERPRISE WOULD HAVE A SPECIAL PLACE; IT WOULD NOT ALWAYS BE IN COMPETITION WITH OTHERS. PINTO SUPPORTED STRONG NEGOTIATING POWER FOR AUTHORITY AND FINAL POWER TO DETERMINE OF THE NEGOTIATIONS WE SUCCESSFUL. WHILE TRANSITIONAL REGIME IS FORCED ON US BY CIRCUMSTANCES, WE MUST AGREE NOW ON THE REGIME THAT WILL FOLLOW. THE ASSEMBLY MIGHT BE EMPOWERED TO END THE TRANSITIONAL SYSTEM WHEN UNITARY SYSTEM READY TO GO
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INTO OPERATION.

--AMB. AGUILAR (VENEZUELA) CRITICIZED LIMITATIONS ON AUTHORITY'S POWERS IN TREATY TEXT AS CREATING IN THE AUTHORITY A QTE MERE ROBOT. UNQTE THE AUTHORITY MUST

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DEPT PLEASE POUCH TO ALL US EMBASSIES , USUN, USEC

NOT LOSE ITS NEGOTIATING POWERS AND BECOME A CLAIMS
OFFICE. THE AUTHORITY IN THE VIEW OF THE G-77, ACCORD-
ING TO AGUILAR, CAN DECIDE WHAT ACTIVITIES IN THE AREA
WILL BE CARRIED OUT, WHAT MACHINERY WILL COME INTO PLAY,
SET DATES FOR BIDS AND HAVE SIGNIFICANT NEGOTIATING
POWER. HE ACCEPTED A TEMPORARY SYSTEM WITH A PHASE-OUT
TO MODIFY THE SYSTEM GRADUALLY. WHILE THE PROVISIONAL
REGIME WOULD TAKE INTO ACCOUNT PRESENT REALITIES, THE
ENTERPRISE WOULD GRADUALLY ASSUME A PRIORITY. QTE IF A
TEMPORARY REGIME LEADS TO A PERMANENT UNITARY SYSTEM, I
CAN AGREE UNQTE. AGUILAR SAID. HE STATED HE COULD NOT
AGREE TO A REGIME UNLIMITED IN TIME OR TO SIMPLY A CON-
FERENCE TO DEVELOP A FINAL SOLUTION. IN PROVISIONAL
REGIME, ENTERPRISE MUST BE VIABLE THROUGH FEES AND
ROYALTIES ALONG MEXICAN PROPOSAL LINES.

-- AMB. RATTRAY (JAMAICA) ACKNOWLEDGED THAT ANY
FRAMEWORK SHOULD PROVIDE FOR STATE AND PRIVATE EXPLOITATION,
BUT HE FAVORED QTE PROGRAMMING UNQTE OF THE ACTIVITIES OF THE
AREA WITHIN THE FRAMEWORK OF THE RESOURCES POLICY AND
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PROTECTION FOR LAND-BASED PRODUCERS PROVIDED IN ARTICLE 9.
THERE CANNOT BE QTE AUTOMATICITY UNQTE IN GRANTING CONTRACTS.

CONTRACTS CANNOT BE GRANTED ON A FIRST-COME, FIRST-SERVED BASIS SINCE IT MAY NOT BE POSSIBLE TO ALLOW SEVERAL CONTRACTS AT THE SAME TIME. THUS A SPECIFIC TIME WOULD BE SET FOR APPLICATIONS WITH COMPETITION FOR THE AUTHORITY'S BENEFIT. WE SHOULD MAKE SURE THAT THE ENTERPRISE CAN WORK AND OBTAIN THE NECESSARY TECHNOLOGY AND FINANCING; THEREFORE, WE ARE GLAD TO KNOW THE KISSINGER PROPOSALS ARE STILL ON THE TABLE (PER AMB. RICHARDSON). WE SHOULD CONSIDER A TEMPORARY SYSTEM. THE ENTERPRISE SHOULD HAVE SOME SPECIAL RIGHTS NOT GRANTED TO OTHER MINERS EXCEPT IT SHOULD WIDEN THE RESOURCE POLICY. ON TRANSITIONAL REGIME: YOU COULD HAVE A UNITARY SYSTEM WITH A CERTAIN PARALLELISM IN IT; WORK BEING DONE IN ASSOCIATION WITH AUTHORITY. WE NEED THIS TO GET THE TECHNOLOGY.

-- DR. HYERA (TANZANIA) BELIEGES THE ASSUMPTION OF A QTE PARALLES SYSTEM UNQTE IS QTE A FALSE START UNQTE; BUT IF ACCEPTED, THERE SHOULD BE NO AUTOMATIC ACCESS. THE AUTHORITY SHOULD BE ABLE TO DETERMINE HOW MANY WILL MINE IN ACCORDANCE WITH ART. 9 RESOURCE POLICY. AUTHORITY SHOULD HAVE DISCRETIONARY POWER. NEW INTERNATIONAL ECONOMIC ORDER (NIEO) PRINCIPLES MAKE CERTAIN ELEMENTS IN LOS TREATY UNACCEPTABLE; LOS SHOULD NOT TAKE A PATH DIFFERENT FROM THE REST OF THE WORLD. WE MUST NOT JUST PAY LIP SERVICE TO QUTE COMMON HERITAGE UNQTE. WITHIN FRAMEWORK OF DISCRETIONARY POWER FOR THE AUTHORITY TO DETERMINE WHO WILL MINE, WE CAN TALK OF A PARALLEL SYSTEM LIMITED BY CERTAIN PRESCRIBED CONDITIONS, WITH POWER TO TERMINATE THE CONTRACTUAL SYSTEM AND WITH QUOTAS FOR INDIVIDUAL STATES. WE SHOULD AIM TO CHANGE THE PARALLEL SYSTEM WHICH IS REQUIRED TO GET FINANCING AND TECHNOLOGY. BUT WE MUST NO SELL-OUT BASIC PRINCIPLES.

-- F.X. NJENGA (KENYA) IS NOT IN FAVOR OF PARALLEL
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SYSTEM SINCE ENTERPRISE WOULD BE HURT IN SUCH A SYSTEM. WE MUST BE CLEAR THAT ENTERPRISE WILL FUNCTION IF WE ARE TO SERIOUSLY CONSIDER THE PARALLEL SYSTEM. NJENGA FAVORS A TRIAL REGIME FOR 25 YEARS WHICH CAN BE CHANGED IF IT DOES NOT MEASURE UP TO THE CONCEPT OF COMMON HERITAGE. HE SAID THAT NOTICE OF APPLICATION BY A FIRM SHOULD TAKE PLACE AFTER THE EXPLORATION PHASE, NOT PROSPECTING PHASE. THERE SHOULD BE AS MANY APPLICATIONS AS POSSIBLE TO ENABLE THE AUTHORITY TO GET THE BEST DEAL. THE AUTHORITY SHOULD BE ABLE TO TREAT ONE FIRM BETTER THAN ANOTHER TO ENCOURAGE A QTE POSITIVE ATTITUDE UNQTE TOWARD THE ENTERPRISE.

-- AMB. JAGOTA (INDIA) SUPPOGTED A UNITARY SYSTEM WITH A STRONG AUTHORITY WITH CONSIDERABLE DISCRETIONARY POWERS.

HE OPPOSED AUTOMATIC GUARANTEED ACCESS. HE EXPRESSED WILLINGNESS TO LOOK AT A SEABED REGIME UNDER WHICH FOR 25 YEARS IT WOULD BE POSSIBLE FOR BOTH STATES AND PRIVATE ENTITIES AND THE ENTERPRISE TO PARTICIPATE -- BUT ONLY ON A PROVISIONAL AND LIMITED BASIS. THE PERMANENT UNITARY SYSTEM WOULD STILL BE SET OUT IN THE TREATY NOW, BUT THERE COULD BE AN ANNEX, NOT IN THE CONVENTION, SETTING OUT CONDITIONS FOR PARALLEL ACCESS ON AN INTERIM BASIS. THE ANNEX COULD AUTOMATICALLY LAPSE AFTER SAY 20 YEARS. THE AUTHORITY WOULD THEN DETERMINE IF ANY SYSTEM OF COLLABORATION SHOULD CONTINUE. ALSO, HE NOTED THAT THE "AREA" IS NO LONGER HIGH SEAS FOR A LARGE MAJORITY OF STATES.

-- ADIO (NIGERIA) SAID THE LDCS HAVE OFFERED TO ACCEPT THE PARALLES SYSTEM WHICH IS A CONCESSION--WHAT CONCESSIONS ARE NOW OFFERED BY DEVELOPED COUNTRIES? AFTER HAVING REVIEWED THE DEEP SEABED SITUATION, IT APPEARS THAT A SINGLE SYSTEM OF EXPLOITATION WILL NOT WORK AS LONG AS THE PRIVATE CONTRACTOR DOES NOT WANT TO COOPERATE AND THE AUTHORITY HAS NO MONEY. HE NOTED THAT WHATEVER HAPPENS IN THIS CONFERENCE, SEABED MINING WILL GO ON WITH OR WITHOUT A CONVENTION. THUS HE CAN AGREE WITH A TREATY IN WHICH AUTHORITY

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HAS EXCLUSIVE CONTROL OVER THE AREA BUT WHICH EMBODIES A PARALLES SYSTEM OF EXPLOITATION.

-- THOMPSON-FLORES (BRAZIL) SAID A DEFINITIVE REGIME DOES NOT NEED TO BE SET NOW; SO WE SHOULD TRY TO GET THE BEST POSSIBLE CONVENTION WITH AN EFFECTIVE FEVIEW PROVISION. THE REVIEW SHOULD RESPECT EXISTING CONTRACTS. HE FAVORS CONCEPT THAT ACTIVITIES IN THE AREA MUST BE "PROGRAMMED" BASED ON RESOURCE POLICY CRITERIA WHICH SHOULD BE SPELLED OUT. PROGRAMMING SHOULD ALSO HELP ASSURE THAT THE ENTERPRISE HAS MARKETS AND CAN PARTICIPATE IN ANY COMMODITY AGREEMENTS

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WHICH MIGHT BE AGREED WITH REGARD TO SEABED PRODUCTION.
(NOTE: APPEARS THAT THOMPSON-FLORES IS STILL TRYING TO HAVE
AUTHORITY ACT IN A FUTURE COMMODITY AGREEMENTS, FOR ALL
PRODUCTION I.E. ALL IN AREA, SDABED PRODUCTION AS OPPOSED TO
JUST ENTERPRISE PRODUCTION.) WE CAN ALL AGREE THAT THE COMMON
HERITAGE CONCEPT IMPLIES THAT EACH NATION HAS THE RIGHT
TO AVAIL ITSELF OF SEABED RESOURCES. BUT WE ARE NOT AGREED
ON HOW THIS SHOULD WORK.

-- AMBASSADOR KOH (SINGAPORE) SAID ACCEPTANCE OF A
MIXED EXPLOITATION SYSTEM WAS CONTINGENT UPON A VIABLE,
EFFECTIVE AND COMPETITIVE ENTERPRISE. KISSINGER'S PROPOSAL
PROVIDED FINANCING, BUT THERE WERE NO DETAILS. HE HOPED
"DETACHED" COUNTRIES SUCH AS AUSTRALIA, NEW ZEALAND AND
SWEDEN COULD PLAY A THIRD PARTY ROLE. KEY PRINCIPLE IS
THAT ALL ACTIVITIES IN AREA WILL BE CONTROLLED BY THE
AUTHORITY. KOH NOTED TREND IN DEVELOPING COUNTRIES WHICH
HAS ENTERPRISE EXPANDING AND ULTIMATELY GAINING EXCLUSIVE
CONTROL OVER EXPLOITATION OF SEABED WHILE DEVELOPED COUNTRIES
ARE DEMANDING GUARANTEED ROLE THROUGH A PARALLELED SYSTEM CAN
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THE INDUSTRIALIZED COUNTRIES DEMAND FOR A GUARANTEED ROLE
AND ACCESS TO THE SEABEDS BE MET IN SOME FORM OF CONTRACT
ARRANGEMENT OR OTHER SUCH WAY?

-- ZEGERS (CHILE) GENERALLY SUPPORTED THE CASTANEDA
TEXT PROVIDING THE SYSTEM IS REVISED IN 20-25 YEARS AND A
REVIEW CONFERENCE IS AUTOMATICALLY CONVENED WITH CERTAIN
PRINCIPLES SET OUT. ZEGERS SAID THAT A COMPROMISE IS
POSSIBLE ON WHAT KOH CALLED A MIXED SYSTEM IN WHICH THE
ENTERPRISE AND STATES UNDER THE CONTROL AND
ORGANIZATION OF THE AUTHORITY. BUT THE ENTERPRISE MUST

BE VIABLE.

-- DESOTO (PERU) SAID, WHILE THE ENTERPRISE AS AN ORGAN OF THE AUTHORITY IS NOT SUBJECT TO THE SAME REGIME AS STATES AND PRIVATE ENTITIES, IT IS NOT TOTALLY AUTONOMOUS. ALL ARE AGREED THAT THERE SHOULD BE LIMITATIONS ON STATE ACCESS--WE MUST DEFINE THESE.

8. THE INDUSTRIALIZED COUNTRIES GENERALLY TOOK A FIRM STAND ON THE QUESTIONS OF ACCESS. IN PARTICULAR, THE UK, THE SOVIET UNION, FRANCE, FRG AND JAPAN MADE INTERVENTIONS INSISTING ON ACCESS.

-- KAZMIN (USSR) NOTED THAT THEY COULD NOT ACCEPT JOINT VENTURES AND A ROLE MUST BE PERMITTED FOR STATE ENTERPRISES. THE SOVIETS NOTED THEIR CONCERN WITH RESPECT TO DISCRIMINATION AGAINST THE SOCIALIST STATES. LOGAN (UK) NOTED THAT THE PARALLEL SYSTEM WAS A CONCESSION MADE BY THE DEVELOPED COUNTRIES WHO WOULD HAVE PREFERRED A SIMPLE SYSTEM OF EXPLOITATION BY STATES. WHILE THE RSNT REFLECTS THAT COMPROMISE, IT IS NOT YET SATISFACTORY. UK STATED THAT ANY COMPROMISE LIES SOMEWHERE NEAR THE RSNT AND TOWARDS THE G-77 PROPOSED DRAFT. FINALLY, STATES MUST HAVE A PERMANENT ROLE IN THE SEABEDS. IN RESPONSE TO A QUESTION BY AMBASSADOR KOH, UK SAID IF PERMANENT, NON-CONFIDENTIAL

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DISCRIMINATORY ACCESS COULD BE DEFINED WITHIN A "UNITARY" SYSTEM, IT WOULD BE ACCEPTABLE.

A NUMBER OF INDUSTRIALIZED COUNTRIES ALSO EMPHASIZED THE NEED TO LIMIT THE DISCRETIONARY POWERS ACCORDED THE AUTHORITY. MOST INDUSTRIALIZED COUNTRIES OFFERED EITHER GENERAL COMMENTS OR SPECIFIC CHANGES TO THE EVENSEN TEXT. SOME CRITICIZED THE EVENSEN TEXT FOR NOT OFFERING A TRUE PARALLEL SYSTEM BECAUSE OF THE WIDE POWERS OF THE AUTHORITY. JAPAN (FUJISAKI) NOTED THAT THEY HAVE NOT YET TAKEN A POSITION ON FINANCING THE ENTERPRISE, BUT COULD PROBABLY OBTAIN A MORE POSITIVE RESPONSE IF AGREEMENT WERE OBTAINED ON ACCESS AND OTHER QUESTIONS.

9. THE UNITED STATES GENERALLY TOOK LOW-KEY APPROACH AVOIDING CONFRONTATION BUT MAKING CLEAR ITS VIEWS AND INTERESTS. AMBASSADOR RICHARDSON NOTED THAT THE PARALLEL SYSTEM (AS REPRESENTED IN RSNT) WAS ITSELF A COMPROMISE FROM THE PERSPECTIVE OF THE DEVELOPED COUNTRIES. IF THERE IS TO BE A COMPROMISE, RICHARDSON SAID, ALL MUST BE SATISFIED THAT THE REGIME WILL BE NON-DISCRIMINATORY AND PROVIDES A MEANINGFUL OPPORTUNITY TO MINE FOR STATES AND THEIR NATIONALS, AS WELL AS FOR THE ENTERPRISE. RICHARDSON

AFFIRMED THAT THE KISSINGER PROPOSALS OF LAST FALL WERE STILL ON THE TABLE. THE US WAS HERE TO LEARN THE VIEWS OF THE DELEGATES AND TO PARTICIPATE IN AN INFORMAL PROCESS TO CONSIDER POSSIBLE RESOLUTIONS OF THE COMMITTEE I IMPASSE. IN PARTICULAR, AMBASSADOR RICHARDSON NOTED THE DANGER OF WIDE DISCRETIONARY POWERS OF THE AUTHORITY IN REVIEWING APPLICATIONS FOR SEABED EXPLOITATION. AS THE RANGE OF DISCRETION IS BROADENED, THE PROSPECT OF DISCRIMINATION IS INCREASED; AT SOME POINT THE PARALLEL SYSTEM MAY FALL AND WITH IT THE PROSPECT FOR RESOLUTION OF THE IMPASSE. US EMPHASIZED THE NEED FOR PRAGMETIC SOLUTIONS IN WHICH NO ONE IS LIKELY TO BE COMPLETELY SATISFIED. THE US ALSO PROPOSED SPECIFIC AND GENERAL SUGGESTIONS ON THE EVENSEN
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PAGE 04 GENEVA 01774 04 OF 04 092114Z

TEXT TO STRENGEHEN THE PARALLEL ELEMENT AND TO DELIMIT THE DISCRETION OF THE AUTHORITY. CATTO

NOTE BY OCT: NOT POUCHED ABOVE ADDRESSEE.

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SEABED, LAW OF THE SEA, NUCLEAR PROLIFERATION, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 09-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA01774
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: DC AND TITLE LINE PER 77 GENEVA 2725
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770081-0741
Format: TEL
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770375/aaaacocx.tel
Line Count: 571
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 74bcd1ba-c288-dd11-92da-001cc4696bcc
Office: ACTION IO
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3155749
Secure: OPEN
Status: NATIVE
Subject: LOS: WEEKLY SUMMARY OF INFORMAL EVENSEN INTERSESSIONAL MEETINGS, FEB. 26 - MARCH 4
TAGS: PLOS, PARM
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/74bcd1ba-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009